

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DONALD POWELL,	:	CIVIL ACTION
Petitioner,	:	
	:	
v.	:	
	:	
GEORGE PATRICK, ET AL.,	:	
Respondents	:	NO. 07-2909

ORDER

AND NOW, this 11th day of December, 2007, upon careful and independent consideration of the Petition for Writ of Habeas Corpus of Donald Powell (Docket No. 1), the Government's response thereto (Docket No. 7), and the Report and Recommendation of the Honorable Timothy R. Rice, United States Magistrate Judge (Docket No. 8), and in the absence of any objections, it is hereby ORDERED that:

1. The Report and Recommendation is ADOPTED.
2. The Petition for Writ of Habeas Corpus is DENIED AND DISMISSED WITHOUT PREJUDICE for failure to exhaust administrative remedies.
3. There is no basis for the issuance of a certificate of appealability.¹
4. The Clerk of the Court shall CLOSE this case for all purposes, including statistics.

BY THE COURT:

S/Gene E.K. Pratter
GENE E.K. PRATTER
UNITED STATES DISTRICT JUDGE

¹ A certificate of appealability may issue only upon "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The Court concludes, for the reasons provided in Magistrate Judge Rice's Report, that there is no probable cause to issue a certificate of appealability in this case.